IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1034 (M/B) 2003

Kausar Ali,
S/o Late Akbar Ali,
R/o Village – Jianpur Jhanjhedi,
Tehsil Roorkee,
Distt. Haridwar. ……. Petitioner

Versus

1. State of Uttaranchal through Collector Haridwar.
2. District Panchayat Raj Officer, Haridwar.
3. Mohd. Yusuf, S/o Mohd. Akhtar, R/o Village Jianpur Jhanjhedi, Tehsil Roorkee, Haridwar. …….. Respondents

Mr. Arvind Vashishtha, Advocate for the Petitioner.
Mr. K.P.Upadhhaya, Counsel for the State.
Mr. Alok Mahara i/b Mr. Lok Pal Singh, Advocate for the respondent no. 3.

Coram: **Hon'ble S.H. Kapadia ,C.J.**
Hon'ble M.M. Ghildiyal, J.

Dated: 03. 11.2003:

PC:

Rule.

Respondents waive service.

By order dated 15.07.2002, financial powers of Pradhan were taken away on the ground of embezzlement pursuant to the preliminary enquiry. These powers were restored by the District Panchayat Raj Officer, Haridwar vide his order dated 19.5.2003. This order was challenged before us by way of writ petition no. 870 (M/B) of 2003. By our order dated 16.09.2003, we directed the District Magistrate/Collector to take steps to recover the amount and to proceed with the removal of Pradhan in accordance with law.

It may be noted that till today the District Magistrate has not passed final order of removal in accordance with law, although the financial powers have been taken from the Pradhan / petitioner. It

may also be mentioned that in our order dated 16.9.2003, we have clearly mentioned that steps for removal are yet to be taken and that they may be taken in accordance with law. However, the District Magistrate by his order dated 16.10.2003 has observed that High Court has directed removal of the petitioner. We may clarify that we have not said so. What we have stated is that he may be removed in accordance with law.

Subject to above clarification, we direct the District Magistrate, Haridwar to take final decision under section 95(1)(g) of the U.P. Panchayat Raj Act within a period of four weeks from today after giving opportunity to the parties and after recording reasons in accordance with law. Till that time, financial powers will be exercised by the Committee.

Petition is disposed of accordingly.

(M.M. Ghildiyal, J.) **(S.H. Kapadia, C.J.)**

AK.